

2009 MAY -6 AM 10: 57

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No. : 7,281,047 *APP# 09/761* Confirmation No.: 5201
Applicant : James Steven Hayko, et al. *433*
Issued : October 9, 2007
TC/A.U. : 2144
Docket No. : 33262

SECOND LETTER REQUESTING REFUND

Attn: Deposit Account Department
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A first Request for Refund was submitted on January 9, 2009. The request has not yet been acted upon. A charge of \$120.00 was posted on June 7, 2007 to our Deposit Account No. 16-0820, Attorney Docket Number GOWL-33262 for code 1251 (extension of time within 1st month) in the above-referenced patent application. We believe that this charge is incorrect and should be refunded, and our explanation thereof is as follows:

1. On February 22, 2007 we filed a First Reply to Final Action Under Rule 116. Since this reply was filed within two months of the issuance of the Final Rejection, no extension of time fee was due.

2. On March 30, 2007 the U.S. Patent Office mailed an Advisory Action in response to the First Reply which we filed on February 22, 2007. The Advisory Action set the response date to reply to (1) the mailing date of the Advisory Action, or (2) the date set forth in the final rejection, whichever is later. Accordingly, the response deadline was set for March 30, 2007 (rather than March 22, 2007).

2. On May 30, 2007 we filed a Second Reply to Final Action Under Rule 116 requesting a two month extension of time (from March 30, 2007 to May 30, 2007) and authorizing a \$450.00 charge to our Deposit Account for the two month extension of time fee. The \$450.00 charge for this fee posted to our Deposit Account Statement on May 31, 2007.

3. On June 14, 2007 the U.S. Patent Office mailed a further Advisory Action which stated that the period for reply expires 3 months from the mailing date of the final rejection (i.e., June 22, 2007).

4. On June 20, 2007 we filed a Request for Continued Examination (RCE) along with an Amendment requesting a further one month extension of time to June 22, 2007 and authorizing the additional \$570.00 extension of time fee (and the \$790.00 RCE fee) be charged to our Deposit Account. Both the \$570.00 and \$790.00 fees posted to our Deposit Account Statement on June 21, 2007.

5. We note that our January 9, 2009 review of all Deposit Account Statements from May 1, 2007 to January 9, 2009 did not show any \$120.00 credit for the above-referenced case.

Per the above explanation, we believe that the \$120.00 extension of time fee charged to our Deposit Account was in error and we request that this \$120.00 charge be credited to our Deposit Account

No. 16-0820 for Attorney Docket Number GOWL-33262. Any questions regarding this request for refund should be directed to the undersigned attorney for record or his secretary, Linda Ibbett.

Respectfully submitted,
PEARNE & GORDON LLP

By *John P. Murtaugh*
John P. Murtaugh, Reg. No. 34226

1801 East 9th Street, Suite 1200
Cleveland, OH 44114-3108
Phone: 216-579-1700

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